

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 8 January 2025

DOCKET NUMBER: AR20240003025

APPLICANT REQUESTS: reconsideration of his previous request for upgrade of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to reflect:

- Item 24 (Character of Service): honorable or in the alternative (general) under honorable conditions vice under other than honorable conditions
- Item 25 (Separation Authority): Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), paragraph 5-3 vice AR 635-200, chapter 10
- Item 26 (Separation Code): KFF vice KFS
- Item 27 (Reentry Code): 1 vice 3
- Item 28 (Narrative Reason for Separation): Secretarial Authority vice For the Good of the Service – In Lieu of Court-Martial

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Counsel brief
- Request for discharge approval
- Memo from Trial Defense Service (TDS)
- Character letter (R.N.T.)
- Character letter (N.H.W.)
- Letter Dr. (J.M.)
- Self-authored statement

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20210015531 on 16 March 2022.

2. The applicant states while he is proud of his choice to protect the freedom and constitution of his country, that choice came with sacrifices and consequences that he is still learning to navigate thirty plus years later at the age of 54. This has not been easy as he still deals with the stigma of having a lifelong disease as well as the negative

effects that have impacted his personal life and career. Many people in his innermost circle have experienced the effects of his disease, friends, romantic companions, siblings but most importantly his children.

a. Since his last statement in 2021, he has continued to seek treatment and therapy for his Post Traumatic Stress Disorder (PTSD), he has continued this treatment since being diagnosed in 2016. The continued effort he is making today has slowly helped him to better engage with his adult children but also start to establish relationships with his grandchildren. His disease still causes him at times to seek isolation and keep to himself but there are elderly people in his community that he assist with odd jobs from time to time. There is a compassionate part of him that wants them to know they have someone they can count on for help even when it may be a challenge for him to be present.

b. Although this disease is a struggle and has costs him career advancements, he works daily to be a dedicated employee while working as the lone source in the resident office at Moody Air Force Base (AFB) away from the rest of the team housed at Warner Robbins AFB.

c. When he is wrong, he can admit that he is wrong. Today he can say that in 1992 as a 22-year-old soldier, his actions of using marijuana to self-medicate, and violating a regulation were wrong. As a 54-year-old man he apologizes for that young soldier. This mistake has been a very heavy weight and unwanted reminder that haunts him and keeps him from being able to live a progressive life. He earnestly asks that the board please reconsider the initial decision and help lift this burden that he carries daily.

d. Injustice - Liberal consideration is appropriate to grant full relief because PTSD incurred by combat experiences mitigated the nonviolent misconduct that led to discharge. Weighed against his honorable contributions, marijuana to self-medicate and failure to obey orders are comparatively minor and not deserving of an other than honorable (OTH) discharge.

e. Clemency - 30 years later, the consequences of an OTH are too harsh under these circumstances; his exemplary post service conduct merits consideration as character letters show he has been a good father and civilian employee at Moody AFB. He now exemplifies the Army values of Leadership, Duty, Respect, Selfless Service, Honor, Integrity and Personal Courage and an upgrade would remove barriers to career advancement.

3. Counsel states in response to this Board's 20 March 2023 decision to deny full relief in docket number AR20210015531, the applicant submits this letter with Exhibits R1-R5 in support of reopening and applying liberal consideration under the Kurta memo and related guidance. The Board closed this case upon finding that details of the reasons for

discharge (i.e. complete Ch 10/separation packet) were unavailable. The medical advisor wrote that they could not opine whether mental illness outweighed the discharge because there was no specific information regarding the court martial charges. Given the information now available, the Board should obtain an updated advisory opinion if necessary and grant full relief because liberal consideration is appropriate to find that substance use and failure to obey orders are outweighed by this combat veteran's PTSD.

a. New evidence is available because subsequent correspondence with the Department of Veterans Affairs (VA) yielded the enclosed extracts, which reveal new details about the reasons for discharge. This reliable documentation shows what the charges against the applicant were:

- possession and use of a controlled substance (marijuana); and
- violation of a lawful general regulation

b. Counsel submits that the applicant's OTH characterization is an injustice given evidence that undiagnosed and untreated mental illness mitigated his misconduct. The Board should upgrade to fully Honorable, or General in the alternative; change in narrative reason to "Secretarial Authority," with corresponding separation code; and change in reenlistment code to RE1. As the Board previously commented, the applicant's PTSD would mitigate marijuana charges. Indeed, this new evidence confirms marijuana charges formed part of the justification for his discharge.

c. Turning to the second charge, the applicant was expected to obey orders regarding the proper registration and storage of his firearm. But liberal consideration also empowers the Board to consider that mental health conditions "inherently affect one's behavior and choices causing veterans to think and behave differently than might otherwise be expected." His discharge was punishment for failing to do so, contemporaneous with his use of marijuana to self-medicate his PTSD. The Board should place appropriate weight on the medical opinion interpreting the applicant's irrational fear and hypervigilance as symptoms and finding that his misconduct was "a direct result of his combat-related trauma and subsequent PTSD."

d. Continuing to punish him for these mistakes, over thirty years later, is too harsh. It is proper for the Board to consider the collateral consequences of the OTH to his career. His discharge hinders advancement as a civilian employee in the U.S. Army Corps of Engineers.

e. Injustice - new evidence clarifies the misconduct for which applicant was discharged; because his mental illness to include PTSD mitigated the misconduct, liberal consideration should apply. Clemency - Passage of time and positive post service conduct weigh in favor of granting relief from the overly harsh consequences.

The upgrade is necessary to remove barriers to career advancement while serving as a civilian on a military installation.

4. The applicant enlisted in the Regular Army on 29 December 1988. He held military occupational specialty 19K (M1 (Abrams) Armor Crewman).

5. He served in Saudi Arabia from 7 January 1991 – 13 May 1991 in support of Desert Shield/Desert Storm.

6. The applicant's record is void of the complete facts and circumstances that led to his separation. The applicant provides a memo from TDS, dated 29 June 1992, in which he was afforded the opportunity to consult with appointed counsel. He requested discharge for the good of the service. He voluntarily requested discharge under the provisions of AR 635-200, chapter 10. He understood that he may request discharge for the good of the service because of the following charges which have been preferred against him under the Uniform Code of Military Justice, which authorize the imposition of a bad-conduct or dishonorable discharge for two violations of Article 112a, possession and use of a controlled substance, and one violation of Article 92, violation of a lawful general regulation. He acknowledged that he understood the elements of the offenses charged and was guilty of an offense against him which authorizes the imposition of a bad-conduct or dishonorable discharge.

- He understood he may be discharged under OTH conditions and furnished an Other Than Honorable Discharge Certificate
- He understood the possible effects of an OTH discharge and as a result he will be deprived of many or all Army benefits, that he may be ineligible for many or all benefits administered by the Veteran's Administration, and that he may be deprived of his rights and benefits as a veteran under both Federal and State law
- He also understood that he may expect to encounter substantial prejudice in civilian life because of an OTH discharge

7. On 1 July 1992, his chain of command recommended approval of his request for discharge and recommended issuance of a discharge under other than honorable conditions.

8. The applicant provides request for discharge approval showing on 14 July 1992, the separation authority approved his request for discharge for the good of the service under the provisions of AR 635-200, chapter 10. He directed his discharge be characterized as under other than honorable conditions and reduction to the lowest enlisted grade.

9. On 28 July 1992, he was discharged under other than honorable conditions. His DD Form 214 shows he completed 3 years and 7 months net active service this period.

He was awarded or authorized Army Service Ribbon, National Defense Service Medal, Southwest Asia Service Medal with 3 bronze service stars, Kuwait Liberation Medal, Army Good Conduct Medal, Sharpshooter Marksmanship Qualification Badge (M9 Caliber Pistol), Expert Marksmanship Qualification Badge (Hand Grenade), Army Commendation Medal, Army Achievement Medal. It also shows:

- Item 25: AR 635-200, chapter 10
- Item 26: KFS
- Item 27: 3
- Item 28: For the Good of the Service – In Lieu of Court-Martial

10. There is no evidence the applicant applied to the Army Discharge Review Board for review of his discharge within that Board's 15-year statute of limitations.

11. On 16 March 2022, in ABCMR Docket Number AR20210015531, the Board considered his application but determined the evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined that the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned. The Board denied his request.

12. The applicant provides:

a. Character letter (R.N.T.) Area Engineer at Robins Air Force Base, Georgia. He has been an employee of the US Army Corps of Engineers (USACE) for 25 years and supervisor for the last 9 years. During that time have had the pleasure of working with and/or supervising many employees for six USACE Districts in both US and overseas. He shared his thoughts and observations as it pertains to the applicant's work ethic, capabilities, and demeanor. He always maintains a very high standard of professionalism.

(1) He demonstrates acute attention to detail when dealing with customers and colleagues. He exhibits a high level of competence in completing assigned tasks on time and with minimal oversight, showing initiative to take on new responsibilities and being motivated to ensure follow through. R.N.T. has a high level of trust in the applicant's expertise and temperament. He is currently the only Engineer in the Moody Resident Office. This has resulted in him being the "face" of the Corps of Engineers at Moody AFB. He has developed and maintained an excellent relationship with base leadership and is treated as one of their own. His honest and direct communication has fostered a renewed sense of trust and repaired a relationship that was contentious before his arrival. He has skillfully navigated significant funding issues that lead to the suspension of a \$30 Million project and managed to maintain positive relationships with the contractor while negotiating more than \$20 Million in change orders. His actions,

work ethic and relationship-building has resulted in significantly less need for R.N.T.'s involvement in day-to-day issues as he has issued under control.

(2) In addition to the professional relationship detailed above, he has also developed a personal mentoring relationship. He has informed him of his past and daily struggles, and we regularly discuss the steps he is taking to become the person he is meant to be. Despite his previous missteps he now exemplifies the Army values of Leadership, Duty, Respect, Selfless Service, Honor, Integrity and Personal Courage. He is aware of the process that the applicant is going through to upgrade his military discharge, and he has his full support during this process. He believes the applicant has the values and assets they seek at USACE and as his mentor he believes this upgrade will help him not only professionally but also help resolve and release years of an internal struggle.

b. Character letter (N.H.W.) who has known the applicant since 1995.

(1) She has been able to witness him balance co-parenting and the internal struggles he was not formally aware of. Not truly knowing what he was dealing with or how to manage what he was feeling, made it difficult at times for him to navigate everyday life but through it all he has been present for their son and grandson's.

(2) He was present in the classroom, attended PTA meetings, parent lunch days, and field trips. From the time their son started playing football at the age of eight through his senior year of high school, he never missed a game and made sure to accompany him to college tryouts. At the age of fourteen, their son moved in with the applicant permanently until he graduated high school.

(3) During this time, he worked a full-time job, pursued his degree taking classes when time permitted and served as the primary parent. After eight years of trial and tribulation, he was able to triumph and attain his degree as a civil engineer.

(4) Since becoming more knowledgeable, he has been able to seek professional help to address his mental health with various coping mechanisms. This has allowed him to evolve into a better father and grandfather, providing support and stability for his family. Although his military career did not end positively, hopefully this letter will influence reconsideration of his situation and help upgrade his discharge status for the betterment of his career as well as his personal well-being.

c. Letter Dr. (J.M.) writes in strong support for the applicant to change his discharge status from other than honorable to the more fitting and justifiable status of honorable.

(1) He has had the privilege of treating the applicant for about three months. He is not in the habit of writing letters of support for patients unless he truly believes there

are clear circumstances that support their requests. In the applicant's case, it is his firm belief that his experiences in a combat zone have caused him to have PTSD. He is responding to treatment now, but he believes that early on in the disorder his behavior was affected to the point that his conduct and substance abuse were brought to the attention of his commanding officer, and he eventually was separated with an other than honorable discharge.

(2) It is his firm belief that the applicant's current discharge status does not accurately reflect his true character, commitment, and potential. Circumstances surrounding his discharge may not have fully considered the complexities of his service, including any challenges he may have faced due to his service-related experiences. He has had extensive experience in treating combat related PTSD through his employment with the VA hospital system and his current treatment of active duty Airmen with the 820 Base Defense Group at Moody AFB.

(3) He highlight a few key points in support of the applicant's request for a change in discharge status:

(a) From reviewing all of the records that he has, that the applicant's entire personality changed after his experiences in a combat environment.

(b) He is hopeful that with this appeal his overall service record, including his conduct, performance, and commendations prior to his exposure to the circumstances listed in his records of proceedings dated 16 March 2022 should be taken into account when considering this request.

(c) Since his discharge, he has actively sought opportunities for personal growth and improvement. He is a well thought of civil service employee at Moody AFB with a stellar record and NO evidence of behavioral issues or substance abuse, again supporting his contention that the issues that led to his other than honorable discharge were directly related to the PTSD suffered in a stressful combat situation. We know that soldiers who experience trauma who are not infantry often have a worse outcome because their initial training and expectations were different than those whose advanced training included infantry.

(4) Changing his discharge status would not only be an acknowledgment of his dedication and service but also a recognition of the unique challenges he may have faced during his military career. It could provide him with the opportunity to access benefits, support, and opportunities that may currently be unavailable.

(5) He urges the Board to carefully consider the applicant's reconsideration and recognize his service and potential for continued contributions to our nation. Granting

this change in discharge status would not only be a just decision but also a reflection of our nation's gratitude for his selfless service.

13. By regulation, (AR 635-200) sets forth the basic authority for the separation of enlisted personnel. Chapter 10 of that regulation provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may submit a request for discharge for the good of the service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt. Although an honorable or general discharge is authorized, a discharge under other than honorable conditions is normally considered appropriate.

14. In reaching its determination, the Board can consider the applicant's petition and his service record in accordance with the published equity, injustice, or clemency determination guidance.

15. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting reconsideration of his previous request for an upgrade of his discharge and corresponding changes to his DD214. He contends he was experiencing PTSD that mitigates his misconduct. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following: 1) The applicant enlisted in the Regular Army on 29 December 1988; 2) The applicant served in Saudi Arabia from 17 January-30 March 1991; 3) The applicant's record is void of the complete facts and circumstances that led to his separation. The applicant provided a memo from TDS, dated 29 June 1992, in which he was afforded the opportunity to consult with appointed counsel. He requested discharge for the good of the service. He was charged with two violations of Article 112a, possession and use of a controlled substance, and one violation of Article 92, violation of a lawful general regulation; 4) The applicant was discharged on 28 July 1992, Chapter 10- For the Good of the Service – In Lieu of Court-Martial. His service was characterized as under other than honorable conditions; 5) On 16 March 2022, the ABCMR reviewed and denied the applicant's request for an upgrade.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents and the applicant's available and provided military service records. The VA's Joint Legacy Viewer (JLV) and hardcopy civilian medical documentation provided by the applicant were also reviewed.

c. The applicant asserts he was experiencing mental health conditions including PTSD as a result of his deployment, which mitigates his misconduct. There is

insufficient evidence the applicant reported or was diagnosed with a mental health condition while on active service.

d. A review of JLV provided evidence the applicant has been diagnosed service-connected PTSD for treatment purposes. There is insufficient evidence the applicant has engaged in behavioral health treatment at the VA for this condition. The applicant provided hardcopy medical evidence dated 10 October 2023 from a civilian psychiatrist in Valdosta, GA. The applicant was diagnosed with PTSD related to his combat experiences, and he was likely experiencing symptoms of PTSD while on active service. The applicant had been in treatment with this behavioral health provider for three months at time of the letter.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence to support the applicant had a condition or experience that mitigates his known misconduct.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant asserts he experienced PTSD that mitigates his misconduct. There is evidence the applicant has been diagnosed by a civilian provider with PTSD related to his combat experiences in 2023. The applicant was also diagnosed with service-connected PTSD for treatment purposes by the VA.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced PTSD while on active service. The applicant was diagnosed with service-connected PTSD for treatment purposed by the VA. In addition, the applicant provided medical documentation from a civilian behavioral health provider, who asserted the applicant was likely experiencing symptoms of PTSD at the time of his active service.

(3) Does the condition/experience actually excuse or mitigate the discharge? Yes, there is sufficient evidence beyond self-report the applicant has been diagnosed with service-connected PTSD related to his experiences in combat, and he was likely experiencing this condition during his active service. The applicant provided recent evidence that he was charged with possession and use of a controlled substance. Illegal substance use can an example of self-medicating or avoidant behavior, which can be a natural sequelae to PTSD. Therefore, per Liberal Consideration there is sufficient evidence the applicant was experiencing a mitigating mental health condition at the time of his active service.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of her characterization of service. One potential outcome was to deny relief based on the applicant's misconduct, specifically, multiple violations involving controlled substances which was of a serious nature and occurred in a context where the applicant was fully aware of the consequences. However, upon review of the applicant's petition, available military records and medical review, the Board majority concurred with the advising opinion of the Agency Medical Advisor that there is sufficient evidence to support the applicant had a condition or experience that mitigates his known misconduct.

2. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant asserts he experienced PTSD that mitigates his misconduct. There is evidence the applicant has been diagnosed by a civilian provider with PTSD related to his combat experiences in 2023. The applicant was also diagnosed with service-connected PTSD for treatment purposes by the VA.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced PTSD while on active service. The applicant was diagnosed with service-connected PTSD for treatment purposed by the VA. In addition, the applicant provided medical documentation from a civilian behavioral health provider, who asserted the applicant was likely experiencing symptoms of PTSD at the time of his active service.

(3) Does the condition/experience actually excuse or mitigate the discharge? Yes, there is sufficient evidence beyond self-report the applicant has been diagnosed with service-connected PTSD related to his experiences in combat, and he was likely experiencing this condition during his active service. The applicant provided recent evidence that he was charged with possession and use of a controlled substance. Illegal substance use can an example of self-medicating or avoidant behavior, which can be a natural sequela to PTSD. Therefore, per Liberal Consideration there is sufficient evidence the applicant was experiencing a mitigating mental health condition at the time of his active service.

3. The Board acknowledged the complete facts and circumstances surrounding his separation are not available, however found credible evidence of post-service

rehabilitation, including strong character references from professional supervisors, family members, and a treating physician who attests to the applicant's combat-related PTSD and subsequent personal growth. The Board recognized his honorable service prior to the misconduct, his demonstrated commitment to personal and professional development, and his genuine remorse, the Board agreed that partial relief is appropriate. Therefore, the Board granted partial relief to upgrade his discharge from Under Other Than Honorable Conditions to General, Under Honorable Conditions.

4. However, the Board found insufficient evidence that supports the applicant's request to amend Items 25 through 28 of his DD Form 214. The separation authority, separation code, reentry code, and narrative reason for separation accurately reflect the administrative basis and legal framework under which he was discharged. The applicant voluntarily requested discharge under AR 635-200, chapter 10, and acknowledged the charges against him. Therefore, the Board finds no error or injustice in the original entries and found that no further correction is warranted.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	XXX	XXX	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by re-issuing the applicant a DD Form 214 showing his characterization of service as general, under honorable conditions.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to correction to:

- Item 25 (Separation Authority): Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel), paragraph 5-3 vice AR 635-200, chapter 10
- Item 26 (Separation Code): KFF vice KFS
- Item 27 (Reentry Code): 1 vice 3
- Item 28 (Narrative Reason for Separation): Secretarial Authority vice For the Good of the Service – In Lieu of Court-Martial

X //SIGNED//

CHAIRPERSON

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Army Regulation (AR) 635-200 (Personnel Separations-Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel. Chapter 10 of that regulation provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may submit a request for discharge for the good of the service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt. Although an honorable or general discharge is

authorized, a discharge under other than honorable conditions is normally considered appropriate.

a. Paragraph 3-7a (1) states an honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate. Only the honorable characterization may be awarded a member upon completion of his or her period of enlistment or period for which called or ordered to active duty or active duty for training, or where required under specific reasons for separation, unless an entry level status separation (uncharacterized) is warranted.

b. Paragraph 3-7b (1) states a general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Paragraph 3-7b (2) states a characterization of under honorable conditions may be issued only when the reason for the member's separation specifically allows such characterization. It will not be issued to members upon separation at expiration of their period of enlistment, military service obligation, or period for which called or ordered to active duty.

d. Paragraph 5-3 states, in pertinent part, that the separation of enlisted personnel is the prerogative of the Secretary of the Army and will be affected only by his authority. Except as delegated by these regulations or by special Department of the Army directives, the discharge or release of any enlisted member of the Army for the convenience of the Government will be at the Secretary's discretion and with the type of discharge as determined by him. Such authority may be given either in an individual case or by an order applicable to all cases specified in such orders.

2. AR 601-210 (Regular Army and Reserve Components Enlistment Program), governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and non-waiverable separations. Table 3-1, defines reentry eligibility (RE) codes:

a. RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

b. RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable. Eligibility: Ineligible unless a waiver is granted.

c. RE-4 Applies to: Person separated from last period of service with a non-waivable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years of active Federal service. Eligibility: Ineligible for enlistment.

3. AR 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "KFS" as the appropriate code to assign enlisted Soldiers who are voluntarily discharged under the provisions of AR 635-200, Chapter 10, In Lieu of Trial by Court-Martial. The SPD Code/RE Code Cross Reference Table shows that a Soldier assigned an SPD Code of "KFS" will be assigned an RE Code of "4." The SPD code of "KFF" as the appropriate code to assign for Secretarial Authority for Soldiers who are voluntarily discharged under the provisions of AR 635-200 paragraph 5-3.

4. The Acting Principal Deputy Under Secretary of Defense (Personnel and Readiness) provided clarifying guidance to Service DRBs and Service BCM/NRs on 24 February 2016 [Carson Memorandum]. The memorandum directed the BCM/NRs to waive the statute of limitations. Fairness and equity demand, in cases of such magnitude that a Veteran's petition receives full and fair review, even if brought outside of the time limit. Similarly, cases considered previously, either by DRBs or BCM/NRs, but without benefit of the application of the Supplemental Guidance, shall be, upon petition, granted de novo review utilizing the Supplemental Guidance.

5. The Under Secretary of Defense (Personnel and Readiness) provided clarifying guidance to Service DRBs and Service BCM/NRs on 25 August 2017 [Kurta Memorandum]. The memorandum directed them to give liberal consideration to veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD, traumatic brain injury (TBI), sexual assault, or sexual harassment. Standards for review should rightly consider the unique nature of these cases and afford each veteran a reasonable opportunity for relief even if the sexual assault or sexual harassment was unreported, or the mental health condition was not diagnosed until years later. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

a. Guidance documents are not limited to under other than honorable conditions discharge characterizations but rather apply to any petition seeking discharge relief including requests to change the narrative reason, re-enlistment codes, and upgrades from general to honorable characterizations.

b. An honorable discharge characterization does not require flawless military service. Many veterans are separated with an honorable characterization despite some relatively minor or infrequent misconduct.

c. Liberal consideration does not mandate an upgrade. Relief may be appropriate, however, for minor misconduct commonly associated with mental health conditions, including PTSD; TBI; or behaviors commonly associated with sexual assault or sexual harassment; and some significant misconduct sufficiently justified or outweighed by the facts and circumstances.

6. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records (BCM/NRs) regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief based on equity, injustice, or clemency grounds, BCM/NRs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

//NOTHING FOLLOWS//